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Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

Diana M. Williams

Petitioner

v.

Department of Treasury

Respondent

On Petition For Writ Of Certiorari
To The Federal Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Diana M. Williams
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New Orleans, LA 70152
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QUESTIONS PRESENTED

When the Federal court vacates, denies and ignored Whistleblower Act of 1989 and pertinent documentation informing federal entities of prohibited personnel practices and adverse actions is denied to prove al charges under 5 U.S.C. § 2302 (b) (8) and 5 U.S.C. § 2302 (a).

LIST OF PARTIES

- ☒ All parties appear in the caption of the case of the cover page.
- ☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment of this petition is as follows:

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Opinions Below

Petitioner respectfully prays that writ of certiorari issued to review the judgment below.

The opinion of the United States Court of Appeals at Appendix 1 to the petition and is has been designed for publication but is not yet reported.

JURISDICTION

The court of appeals dismissed the petition of rehearing en banc on May 27, 2005. Petitioner timely files a petition for writ of certiorari on August 15, 2005. This court has jurisdiction to 28 U.S.C. § 1254 (1).

STATUTORY PROVISIONS

The statute relevant to this proceeding is 5 U.S.C. § 2302 (a) (8), which provides in relevant part:

Prohibited personnel practices were levied on an employee by supervisors/managers running for a period of several months. —

- (1) the date which the termination letter was issued;
- (2) the date on which the appellant was forced to resign from her position in lieu of management calling her home residence asserting his authority becomes final;
- (3) the date on which the right asserted will be recognized the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could be discovered through the exercise of due diligence.

Full test of the status is set forth attached in Appendix C

STATEMENT OF CASE

Facts

The Department of Treasury manager Ms. Sandralyne W. Esco GS-13 launched to TIGTA {Treasury Inspector for Tax Administrator an investigation on September 28, 2001 illegally against appellant for martial status, violation of filing incorrect taxes for the years 1998, 1999, 2000, property taxes, and educational degrees. 5 U.S.C. 7703 § (9) Government Organization subpart III Access to Criminal history records for National Security and 5 U.S.C. § 2302 (b) (8). Ms. Esco based her evidence on office gossip, vicious rumors, and innuendos, that the appellant misrepresented herself. Ms. Esco did not have any conclusive evidence when she maliciously launched the TIGA investigation against Ms. Williams.

The agency subjected appellant to a hostile and unhealthy work environment, and then constructively discharged appellant. Appellant asserts that there exist an atmosphere of discrimination, hostile work environment, and retaliation at the IRS where she was required to perform tasks of three employees on a probationary basis without proper training. The failure to train is discrimination and harassment in violation of the Civil Rights Act, 42 U.S.C. Section 2000e 16 and Section 1983, and the Louisiana Anti-discriminating and retaliation statue.¹ The agency deprived appellant of advancement of employment opportunities term of training and assignment, by placing absurd job duties and requirements on appellant, stating that she did not complete her assignment correctly (set up for failure), and then constructively discharged her.

Appellant was discriminated against when she submitted a transfer to the agency and the agency failed to transfer appellant. However, when a white employee (Melissa Sanders) put in for a transfer request, the appellant witness Ms. Esco signed and approved Ms. Sander's lateral transfer. The agency failed to promote appellant to a classified career permanent employment status culminating with a retaliatory discharge to appellant. The Agency's employees violated the U.S. Civil Rights Act

and 5 U.S.C. Section 2302 (b) (8) by discriminating and retaliating against appellant, by creating a hostile work environment, and the constructively discharging appellant in violation Anti-discrimination and Anti-retaliation statues of the U. S. Federal statues and in turn violated 42 U.S.C Section 1983 et seq. Appellant filed with the Office of Special Counsel, Merit System Protection Board in October 2002, U.S. Department of Labor Relations Board, State of Louisiana Congressman William Jefferson asking for a congressional review, and The United States Federal Circuit Court of Appeal.

¹ Under 42 U.S.C section 2000e-16 provides that: (a) discrimination prohibited – All personnel actions affecting employees is executive agencies in executive agencies in the those units of the Government of the District of Columbia shall be made free from any discrimination.

5 U.S.C. section 2301 prohibits discrimination and retaliation against federal employees. 5 U.S.C. section 2301 (b) provides that: (7) Employees should be provided effective education and training.

(8) Employees should be protected against arbitrary action, personal favoritism, or coercion.

(9) Employees should be protected against reprisal for lawful disclosure of information which the employees reasonably believe evidences:

(A) A violation of any of law, rule or regulation or

(B) Mismanagement, gross waste of funds, and abuse of authority.

The above statutes and section clearly and unequivocally prohibits reprisals or discrimination to any federal employee, and states that a federal employee can sue or take and appeal of the adverse employment practice. Mr. Joseph Stack and Ms. Sandralyne Esco violated U.S.C. 5 § 2203 sending written notice terminating appellant employment.² The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them.

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5 U.S.C statutes and section provides that:

- (a) (1) For the purpose of this title, "prohibited personnel practice" means any action described in Subsection (b) of this section. Subsection (b) of this section.
- (iii) an action under title 5 USC Section 7501 or other disciplinary or corrective action:
- (iv) a detail, transfer, or reassignment;
- (viii) a performance evaluation under 5 U.S.C. 4301
- (b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not with respect to such authority --
 - (1) discriminate for or against any employee for
 - (a) on the basis of race, color, sex,
 - (b) on the basis of age,
 - (4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
 - (5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
 - (6) grant any preference or advantage to any employee for the purpose of improving or injuring the prospects of any particular person for employment;
 - (8) take or fail to take, or threaten to take or fail to take, any personnel action with respect to any employment or applicant for employment because of
 - (A) any disclosure of information by employee or applicant which the employee or applicant reasonably believes that evidences:
 - (i) a violation of any law, rule or regulation or
 - (ii) gross management, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
 - (9) take or fail to take, or threaten to take or fail to take any personnel action against any employee because of

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